

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20890

Application 29679 of Scharffenberger Cellars (OVER)

c/o Napa Valley Engineering, Inc., 176 Main Street, Suite B, St. Helena, CA 94574

filed on March 7, 1990, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Navarro River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
POINT OF DIVERSION TO OFFSTREAM STORAGE North 515,850 feet and East 1,590,650 feet by California Coordinate System, Zone 2	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	18	14N	14W	MD
Philo 1 (Offstream Pit Storage)	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	18	14N	14W	MD
Philo 2 (Offstream Pit Storage)	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	18	14N	14W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Frost Protection						
Irrigation	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	18	14N	14W	MD	10
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	18	14N	14W	MD	10
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	18	14N	14W	MD	5
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	18	14N	14W	MD	30
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	18	14N	14W	MD	20
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	18	14N	14W	MD	10
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	18	14N	14W	MD	20
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	18	14N	14W	MD	30
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	18	14N	14W	MD	40
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	17	14N	14W	MD	10
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	17	14N	14W	MD	5
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	17	14N	14W	MD	10
						200

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 90 acre-feet per annum to be collected November 15 of each year to March 31 of the succeeding year as follows:
45 acre-feet per annum in Philo 1 Reservoir, and 45 acre-feet per annum in Philo 2 Reservoir. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)

The maximum rate of diversion to offstream storage from all diversion points shall not exceed 2 cubic feet per second. (0000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (00000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (00000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (00000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (00000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

14. For the protection of fish and wildlife and instream uses, permittee shall bypass the total streamflow, at all points of diversion, whenever the flow in the Navarro River is less than 200 cubic feet per second as measured at the United States Geological Survey Streamflow Gauge No. 1146800 on the Navarro River near Navarro, California. In the event that said gauge is no longer available for streamflow measurements, no water shall be diverted under this permit unless an equivalent type gauge, satisfactory to the State Water Resources Control Board is installed as near as practical to the present location of Gauge No. 1146800. The permittee, alone or in cooperation with other interested parties, will be responsible for installation and maintenance of said gauge. (0140400)

15. In order to ensure that streamflow sediment transport capability is maintained, the total rate of diversion from all diversion points under this permit shall be limited to 2 cubic feet per second. Each diversion facility shall be designed such that the total capacity of all facilities does not exceed 2 cubic feet per second. Permittee shall submit plans and specifications of all diversion facilities to the Chief of the Division of Water Rights for approval prior to installation. (0490900)

16. Permittee shall install and maintain measuring devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the instantaneous rate of diversion and the cumulative quantity of water diverted under this permit. A record of daily measurements shall be maintained by the permittee, including readings at the beginning and end of the diversion season. A copy of the measurement records shall be submitted to the State Water Resources Control Board no later than 30 days after the end of the diversion season each year authorized under this permit. (0090900)
(0100900)

17. The State Water Resources Control Board reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and modify instream flow releases, in the event of unforeseen adverse impacts to fish and wildlife. Board action will be taken only after notice to interested parties and opportunity for hearing. (0000600)

18. Prior to November 1 of each year permittee shall either individually or in collaboration with other diverters, submit the following to the Division of Water Rights (Division):

a. A letter or other official evidence from the U.S. Geological Survey (USGS) indicating that the "Navarro River Gauge" (#1146800) will be actively operated by the USGS for the upcoming diversion season (i.e., November 15 through March 31); or certification from a registered Civil Engineer that an accurate streamflow gauge capable of maintaining a continuous record of flow is in place on the Navarro River as near as practical to the present location of Gauge #1146800 which is capable of determining if 200 cubic feet per second (cfs) is present in the Navarro River between November 15 and March 31.

b. A copy of the rating table that will be utilized during the coming winter storage season for the "Navarro River Gauge" and a description of the procedure that could be utilized by any interested party to determine if the flow in the Navarro River at this gauge is greater than 200 cfs at any given time between November 15 and March 31. (0400500)

19. The "Navarro River Gauge" shall be equipped with a device(s) acceptable to the Chief of the Division of Water Rights which allows any interested party to determine if the flow in the river at any given time between November 15 and March 31 is greater than 200 cfs. (0060900)

20. No later than May 15 of each year, Permittee shall:

- a. either individually or in collaboration with other diverters, submit a copy of the record which indicates when flows at the "Navarro River Gauge" exceeded 200 cfs between November 15 and March 31; and
- b. submit either a report that describes any violations, including diversions by permittee when the Navarro River gauge is registering less than 200 cubic feet per second and/or diversions by permittee which exceed this permit's 2 cubic feet per second limitation, that occurred during the previous winter storage diversion season and provide an explanation for all violations; or a statement that no violations occurred. The accuracy of this report shall be certified either by the permittee under penalty of perjury or by a registered civil engineer.

(0060900)

(0400500)

21. No diversion of water is allowed under this permit unless the flow measurement and reporting requirements set forth above are being met. (0360900)

22. For the protection of wildlife, permittee shall present a mitigation plan for the Department of Fish and Game for approval prior to removal of any oak/woodland and/or riparian habitat. The plan shall include but not necessarily be limited to:

- a. a survey which quantifies the number and size of oak, conifer, and other trees that have been or will be removed at the reservoir site and at the place of use;
- b. measures that have been or will be taken to offset impacts to oak/woodland and/or riparian habitat; and
- c. a revegetation plan showing the location, number, and species of oaks and other trees to be planted.

23. To alleviate sedimentation into the unnamed stream and downstream tributaries, permittee shall present an erosion control plan to the Department of Fish and Game for approval. The plan shall include but not necessarily be limited to:

- a. designated buffer zones along all significant drainage channels. Discing, removal of existing vegetation, and other disrupting work shall not be allowed within these buffer zones unless said activity can be shown to improve erosion protection;
- b. erosion protection measures such as seeding, mulching, slope contouring, straw and other measures in all exposed areas susceptible to significant erosion; and
- c. erosion control for access roads by establishing water bars, culverts and other erosion control measures.

24. All instream work shall be confined to the period from June 15 through October 15.

25. In the event that any buried archaeological materials are discovered during project activities authorized by this permit, such activities shall be halted in the vicinity of the discovery, and the State Water Resources Control Board shall be immediately notified.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: January 17, 1997

STATE WATER RESOURCES CONTROL BOARD

David R. Bueing
for Chief, Division of Water Rights